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**IN THE
COURT OF APPEALS OF INDIANA**

TERRANCE PIRTLE,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 49A04-0612-CR-750
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Carol Orbison, Judge
Cause No. 49G17-0609-FD-175957

August 20, 2007

MEMORANDUM DECISION – NOT FOR PUBLICATION

RILEY, Judge

STATEMENT OF THE CASE

Appellant-Defendant, Terrance Pirtle (Pirtle), appeals his conviction for Count I, sexual battery, a Class D felony, Ind. Code. § 35-42-4-8(a).

We affirm.

ISSUES

Pirtle raises one issue on appeal, which we restate as follows: Whether the State presented sufficient evidence to prove beyond a reasonable doubt Pirtle's conviction of sexual battery.

FACTS AND PROCEDURAL HISTORY

On the evening of June 17, 2006, at approximately 8 p.m., M.T. gave Pirtle a ride to her mother's house where M.T. resided. Pirtle and M.T. had a child together, who lived with M.T. M.T. understood that Pirtle's sister would pick Pirtle up around 10:00 p.m. that evening. While waiting to be picked up, Pirtle and M.T. watched television. At some point, Pirtle asked M.T. to perform oral sex on him. Because she refused, Pirtle grabbed M.T. by the back of her head, pushed it down to his groin, stepped on her feet, placed his knees into her stomach and choked her. While they wrestled, Pirtle caused M.T. pain and constricted her breathing. When M.T. threatened to wake other persons in the house, Pirtle covered M.T.'s mouth. While choking her, Pirtle removed his penis from his pants, masturbated and ejaculated on her face, shoulder and neck. He also placed his penis on her lips and chin. Pirtle told M.T., "[y]ou would rather die than suck my dick..." (Transcript p. 15).

On September 20, 2006, the State filed an Information charging Pirtle with: Count I, sexual battery, a Class D felony, I.C. § 35-42-4-8(a); Count II, criminal confinement, a Class D felony, I.C. § 35-42-3-3(a); Count III, battery by bodily waste, a Class A misdemeanor, I.C. § 35-42-2-6(f); Count IV, domestic battery, a Class A misdemeanor, I.C. § 35-42-2-1.3(a); and Count V, battery, a Class A misdemeanor, I.C. § 35-42-2-1.3(a)(1). On November 27, 2006, a bench trial was held. At the conclusion of the evidence, the trial court found Pirtle guilty of Counts I, III and IV, acquitted him of Count II, and vacated Count V.

On November 27, 2006, the trial court sentenced Pirtle on Count I, sexual battery, to Community Corrections for a period of three years, with two years suspended; and for Count III, battery by bodily waste, and Count IV, domestic battery, to three hundred and fifty-six days each. The trial court ordered Pirtle serve the sentences consecutively.

Pirtle now appeals. Additional facts will be provided as necessary.

DISCUSSION AND DECISION

Pirtle contends that the State failed to present sufficient evidence to prove beyond a reasonable doubt his conviction for sexual battery. Specifically, Pirtle argues that the evidence presented was insufficient to prove that he acted with intent to arouse or satisfy his own or M.T.'s sexual desires.

Our standard of review for a sufficiency of the evidence claim is well settled. In reviewing sufficiency of the evidence claims, we will not reweigh the evidence or assess the credibility of the witnesses. *Cox v. State*, 774 N.E.2d 1025, 1028-29 (Ind. Ct. App. 2002). We will consider only the evidence most favorable to the judgment, together with

all reasonable and logical inferences to be drawn therefrom. *Alspach v. State*, 755 N.E.2d 209, 210 (Ind. Ct. App. 2001), *trans. denied*. The conviction will be affirmed if there is substantial evidence of probative value to support the conviction of the trier of fact. *Cox*, 774 N.E.2d at 1028-29. A judgment based on circumstantial evidence will be sustained if the circumstantial evidence alone supports a reasonable inference of guilt. *Maul v. State*, 731 N.E.2d 438, 439 (Ind. 2000).

Sexual battery, a Class D felony, is codified in I.C. § 35-42-4-8(a), which provides:

A person who, with intent to arouse or satisfy the person's own sexual desires or the sexual desires of another person, touches another person when that person is:

(1) compelled to submit to the touching by force or the imminent threat of force; or

(2) so mentally disabled or deficient that consent to the touching cannot be given;

commits sexual battery, a Class D felony.

Thus, to convict Pirtle of sexual battery, the State was required to prove beyond a reasonable doubt that Pirtle: (1) acted with the intent to arouse himself or to satisfy M.T.'s or his own sexual desires; (2) touched M.T. by using force; and (3) compelled her to submit to the touching by force or imminent threat of force. *See* I.C. § 35-42-4-8(a). Pirtle's sole contention relates to the "intent" element of the charge.

The intent element is satisfied by a defendant's conduct and the consequences thereof, which may be inferred from circumstantial evidence. *Chatham v. State*, 845

N.E.2d 203, 206 (Ind. Ct. App. 2006) (quoting *J.J.M v. State*, 779 N.E.2d 602, 606 (Ind. Ct. App. 2002)). In *J.J.M.*, this court found sufficient evidence that the defendant acted with the requisite intent to arouse or satisfy his own desires when he grabbed the victim's head, pulled it toward his crotch, and told her to "give him head." *J.J.M.*, 779 N.E.2d at 606. Similarly, we find Pirtle's intent may be inferred from his conduct and the natural consequences thereof. Here, M.T. testified that Pirtle grabbed her by the back of her head and pushed her to his "private parts." (Tr. p. 9). Testimonial evidence also indicates that Pirtle took his penis out of his pants, touched it to M.T.'s lips and chin, masturbated and ejaculated on M.T.'s face. Also, Pirtle said to M.T.: "[Y]ou would rather die than suck my dick....," (Tr. p. 15). Thus, we conclude the record contains sufficient evidence that Pirtle acted with intention to arouse or satisfy his sexual desires. As Pirtle does not dispute the other elements of the offense, we conclude that the State presented sufficient evidence to prove beyond a reasonable doubt that Pirtle committed sexual battery.

CONCLUSION

Based on the foregoing, we conclude the State presented sufficient evidence beyond reasonable doubt to prove Pirtle committed sexual battery.

Affirmed.

SHARPNACK, J., and FRIEDLANDER, J., concur.